

**FAUQUIER COUNTY PUBLIC LIBRARY
BOARD OF TRUSTEES
September 16, 2004**

**REGULAR PUBLIC MEETING, the third Thursday of each month
Program Room
Fauquier County Public Library
11 Winchester Street, Warrenton, Virginia**

Present

Board Members:

Barbara Severin, Scott District, Board Chairman
Barbara McCulla, Center District
Marshall Bailey, Marshall District
Alice Jane Childs, Cedar Run District
Lawrie Parker, Lee District

Staff:

Maria Del Rosso, Director
Ava Lee, Assistant Director
Linda Yowell, Support Services Manager
Dawn Sowers, Public Services Manager
Cynthia Taylor, Public Information Coordinator
Terri Ludwick-Garonzik, Executive Assistant

CALL TO ORDER

Chairman Barbara Severin called the regular public meeting to order at 4:05 p.m., Thursday, September 16, 2004, in the program room of the Warrenton library.

ADOPTION OF THE AGENDA

Mrs. Severin asked to move the first two items under New Business to after the Administrative Report to accommodate guest speakers present at the meeting. The revised agenda was adopted as presented. There was no Old Business to be discussed at this meeting.

PUBLIC COMMENT

None.

MINUTES

By unanimous vote the July Minutes were approved.

Motion: To approve the July minutes as presented.

Moved, seconded, and passed by vote of those present as shown below.

<i>Member</i>	<i>Moved/Second</i>	<i>Voted No</i>	<i>Other</i>	<i>Voted Yes</i>
<i>Dr. Bailey</i>	S			X
<i>Mrs. Childs</i>	M			X
<i>Mrs. Parker</i>				X
<i>Mrs. Severin</i>				X
<i>Mrs. McCulla</i>				X
<i>Tally</i>				5

APPROVAL OF PURCHASE ORDERS AND BILLS

The Board approved by consensus the purchase orders and bills as presented.

ADMINISTRATIVE REPORT

Mrs. Severin commended Reference Librarian Vicky Ginther on her response to a request for Fauquier County Library bookmarks from a boy in Ft. Myers, Florida to include in his collection of library bookmarks from around the world.

Consent Agenda

Delinquent Patrons

Motion: To approve Consent Agenda item A1, Delinquent Patrons, as presented.

The motion was passed by unanimous vote of those present as shown below.

Member	Moved/Second	Voted No	Other	Voted Yes
Dr. Bailey				X
Mrs. Childs				X
Mrs. Parker				X
Mrs. Severin				X
Mrs. McCulla				X
Tally				5

Gumdrop Square

Background: The Partnership for Warrenton requested the use of the John Barton Payne Community Hall from November 22 through December 29, 2004 for its annual children's Christmas shop. The Partnership assumes responsibility for fire safety, insurance, inspections, clean-up, and free standing decorations, as well as, agreeing to make every effort to accommodate physically and mentally challenged children. The Partnership also agrees that the occupancy load of the building shall not exceed 50 persons by order of the Warrenton Fire Marshal.

Motion: To adopt Consent Agenda Item A2, as presented.

The motion was passed by unanimous vote of those present as shown below.

Member	Moved/Second	Voted No	Other	Voted Yes
Dr. Bailey				X
Mrs. Childs				X
Mrs. Parker				X
Mrs. Severin				X
Mrs. McCulla				X
Tally				5

NEW BUSINESS

Library Levy/Tax

Earlier this year, County Administrator G. Robert Lee suggested that the Library Board consider asking the Board of Supervisors to establish a separate library levy/tax in Fauquier County. In August, Board Chairman Barbara Severin and Library Director Maria Del Rosso met with County Attorney Paul McCulla to discuss the possibility of establishing a separate library levy/tax in Fauquier County. The Board had familiarized itself with the issue at its 9 September worksession and had requested Mr. McCulla to meet with the full Board at its formal session. Mr. McCulla cited two sections of the Virginia Code, Section 42.1-33 (Power of local government to establish and support libraries.) and Section 15.2 -2403 (Powers of service districts.) that support establishing a separate library levy in Fauquier County. Mr. McCulla pointed out that Section 42.1 refers specifically to the power of the locality to levy a tax to support the operation of a public library. Mr. McCulla said that while libraries are not mentioned in Section 15.2 the language is broad in nature and could be interpreted to include libraries. (See attached notes.)

At this meeting, Mr. McCulla briefed the Board on the legislation cited above and provided the Board with a copy of the referenced statutes and a list of pros and cons concerning each statute. (See attached.) Mr. McCulla answered questions from the Board about establishing a separate library levy.

Following this discussion the Board agreed to schedule a work session on October 7 at 4:00 p.m. in the Warrenton program room to review the matter in greater detail.

Library Logo

At its May meeting, the Board approved engaging Catalyst Design to design a logo for library letterhead, envelopes, business cards, and other publications. The Board asked that a logo recommendation be brought to the Board for review and discussion. During the summer, the library staff met with Kelly Thompson, a principal with Catalyst Design, to develop a logo.

At today's meeting, Mr. Thompson presented a proposed logo for the Board's consideration. After reviewing the proposed design, the Board moved to adopt the logo. Mrs. Severin extended the Board's appreciation to Mr. Thompson for the time he spent with staff and his work in designing the logo.

Motion: That the Library Board approve the proposed library logo.

Moved, seconded, and passed by unanimous vote of those present as shown below.

Member	Moved/Second	Voted No	Other	Voted Yes
Dr. Bailey	M			X
Mrs. Childs	S			X
Mrs. Parker				X
Mrs. Severin				X
Mrs. McCulla				X
Tally				5

Election of Officers

The ad hoc nominating committee presented the following slate of officers.

- Chairman Barbara Severin
- Vice-Chairman Marshall Bailey
- Secretary/Treasurer Alice Jane Childs

Mrs. Severin called for nominations from the floor. Hearing none she called for the vote.

Motion: To approve the slate of officers for 2004-2005 as presented.

Moved, seconded, and passed by vote of those present as shown below.

	Moved/Second	Voted No	Other	Voted Yes
Dr. Bailey				X
Mrs. Childs	M			X
Mrs. Parker				X
Mrs. Severin				X
Mrs. McCulla	S			X
Tally				5

Annual Report

Library Public Information Coordinator Cindy Taylor submitted a draft of the FY '04 annual report for the Board's review and comments. Board members agreed to review the document and deliver comments to Ms. Taylor before the October meeting.

FY '06 Budget

The county deadline for FY '06 budget submissions is October 6. The Board discussed a list of FY '06 spending initiatives and determined an order of priority. Mrs. Del Rosso was directed to submit the library's FY '06 funding request including the initiatives by the county deadline. The draft budget will be on the October agenda for ratification by the Library Board.

Five-Year Plan

An objective of the five-year plan adopted by the Library Board in December 2003 states that the plan will be updated annually. As part of the update, the Library Board must also consider subsidiary documents including the financial, facilities, and technology plans. Once adopted, the updated plans are used to guide library operations and expenditure requests for the upcoming year.

The Board postponed discussion of the planning documents until the October meeting.

STATUS REPORT

John Barton Payne/ADA Accessibility

The boundary and topographical survey has been completed by Patton Harris Rust & Associates. The County has entered into an agreement with Moseley Architects to prepare options for making the building compliant with the American Disabilities Act and to increase the occupancy load that is now limited to 50. William Laughlin from Mosley Architects has conducted his inspection of the building. A preliminary report is expected by the end of September.

Parking Committee

Mrs. Severin, Mrs. Del Rosso, and Assistant Director Ava Lee met with Center District Supervisor Richard Robison on September 15 to discuss Mr. Robison's proposal to construct a two-level parking facility behind the library and Walker, Jones, Duggan & Savage, P.C. Mr. Robison suggested that the Library Board approach the Finance Committee of the Board of Supervisors with a project summary and request funding for a feasibility study. (Notes attached.)

Board of Trustees Time

Mrs. Severin advised the Board that she and Mrs. Del Rosso will be attending the Fall Workshop for Public Library Trustees on October 12 at the North Park branch of the Henrico County Public Library. Mrs. Severin invited any Board members interested in attending to register for the workshop.

Mrs. Severin announced that the Board of Directors of the Fauquier Historical Society had invited the Library Board and staff to the opening of an exhibition celebrating the history of the Warren Green Building to be held September 19 at 4:30 p.m.

Mrs. Del Rosso provided Board members with copies of ads placed by the Friends of the Fauquier Library in the local newspapers to congratulate the children and teens who participated in the library's summer reading programs. Mrs. Severin requested that a thank-you letter be sent to the Friends of the Fauquier Library for the ads.

The meeting adjourned at 6:00 p.m. to a work session to be held on Thursday, October 7 at 4:00 p.m. in the program room of the Warrenton Library. The next regularly scheduled meeting of the Library Board will be held on Thursday, October 21, 2004, at 4:00 p.m. in the Warrenton library program room.

Secretary

Chairman

SPECIAL LEVIES FOR FUNDING LIBRARIES

Paul S. McCulla
Fauquier County Attorney
10 Hotel Street
Warrenton, VA 20186
paul.mcculla@fauquier.gov

10/18/2004

I. STATUTORY AUTHORITY

A. Virginia Code Section 42.1-33. Power of local governments to establish and support libraries. This section permits the Board of Supervisors to provide support for the operation of a free public library either by a special levy or as a fund of the general fund of the county.

1. Pro's

- **Can be done as part of the regular budget process or separately.**
- **Monies appropriated must be used for library purposes**
- **Express statutory authority.**
- **Funds can be used for all library purposes including capital and operational expenses.**

2. Cons

- **Requires approval of governing body.**
- **Annual setting of tax rate can result wide swings in funding.**
- **May be opposed by entities which do not want additional taxes.**

B. Virginia Code Section 15.2-2400 et seq. Service Districts. This chapter permits the Board of Supervisors to establish special service districts for the purpose of providing additional, more complete and more timely governmental services to its citizens. To pay for the cost of providing those services the Board of Supervisors is authorized to levy and collect a special tax to pay for the construction, maintenance and operation of the facilities.

1. Pro's

- **Permits use for all governmental purposes.**
- **Previously done for fire and rescue levy and small street light levy in Marshall Service District.**

2. Cons

- **Implied authority to enact service district for libraries.**
- **Requires approval of governing body.**
- **Annual setting of tax rate can result wide swings in funding.**
- **May be opposed by entities which do not want additional taxes.**
- **Requires the creation of an advisory board to help advise on use of the funds.**

C. Process to Enact.

- 1. Both statutes require the holding of a public hearing on the proposed creation of the district or levy.**
- 2. Board of Supervisors must approve creation of district or imposition of levy.**
- 3. Tax for both must be annually levied.**

II. STATUTES

§ 42.1-33. Power of local governments to establish and support libraries. — The governing body of any city, county or town shall have the power to establish a free public library for the use and benefit of its residents. The governing body shall provide sufficient support for the operation of the library by levying a tax therefor, either by special levy or as a fund of the general levy of the city, county or town. The word "support" as used in this chapter shall include but is not limited to, purchase of land for library buildings, purchase or erection of buildings for library purposes, purchase of library books, materials and equipment, compensation of library personnel, and all maintenance expenses for library property and equipment. Funds appropriated or contributed for public library purposes shall constitute a separate fund and shall not be used for any but public library purposes. (1970, c. 606.)

§ 15.2-2403. Powers of service districts. — After adoption of an ordinance or ordinances or the entry of an order creating a service district, the governing body or bodies shall have the following powers with respect to the service districts:

1. To construct, maintain and operate such facilities and equipment as may be necessary or desirable to provide additional, more complete or more timely governmental services within a service district, including but not limited to water supply, sewerage, garbage removal and disposal, heat, light, fire-fighting equipment and power and gas systems and sidewalks; economic development services; promotion of business and retail development services; beautification and landscaping; beach and shoreline management and restoration; control of infestations of insects that may carry a disease that is dangerous to humans, gypsy moths, cankerworms or other pests identified by the Commissioner of the Department of Agriculture and Consumer Services in accordance with the Virginia Pest Law (§ 3.1-188.20 et seq.); public parking; extra security, street cleaning, snow removal and refuse collection services; sponsorship and promotion of recreational and cultural activities; upon petition of over 50 percent of the property owners who own not less than 50 percent of the property to be served, construction, maintenance and general upkeep of streets and roads that are not under the operation and jurisdiction of the Virginia Department of Transportation; and other services, events, or activities which will enhance the public use and enjoyment of and the public safety, public convenience, and public well-being within a service district. Such services, events or activities shall not be undertaken for the sole or dominant benefit of any particular individual, business or other private entity.

2. To provide, in addition to services authorized by subdivision 1, transportation and transportation services within a service district, including, but not limited to: public transportation systems serving the district; transportation management services; road construction; rehabilitation and replacement of existing transportation facilities or systems; and sound walls or sound barriers. However, any transportation service, system, facility, roadway, or roadway appurtenance established under this subdivision that will be operated or maintained by the Virginia Department of Transportation shall be established with the involvement of the governing body of the locality and meet the appropriate requirements of the Department.

3. To acquire in accordance with § 15.2-1800, any such facilities and equipment and rights, title, interest or easements therefor in and to real estate in such district and maintain and operate the same as may be necessary and desirable to provide the governmental services authorized by subdivisions 1 and 2.

4. To contract with any person, municipality or state agency to provide the governmental services authorized by subdivisions 1 and 2 and to construct, establish, maintain and operate any such facilities and equipment as may be necessary and desirable in connection therewith.

5. To require owners or tenants of any property in the district to connect with any such system or systems, and to contract with the owners or tenants for such connections. The owners or tenants shall have the right of appeal to the circuit court within 10 days from action by the governing body.

6. To levy and collect an annual tax upon any property in such service district subject to local taxation to pay, either in whole or in part, the expenses and charges for providing the governmental services authorized by subdivisions 1, 2 and 11 and for constructing, maintaining and operating such facilities and equipment as may be necessary and desirable in connection therewith; however, such annual tax shall not be levied for or used to pay for schools, police or general government services not authorized by this section, and the proceeds from such annual tax shall be so segregated as to enable the same to be expended in the district in which raised. In addition to the tax on property authorized herein, in any city having a population of 350,000 or more and adjacent to the Atlantic Ocean, the city council shall have the power to impose a tax on the base transient room rentals, excluding hotels, motels, and travel campgrounds, within such service district at a rate or percentage not higher than five percent which is in addition to any other transient room rental tax imposed by the city. The proceeds from such additional transient room rental tax shall be deposited in a special fund to be used only for the purpose of beach and shoreline management and restoration. Any locality imposing a tax pursuant to this subdivision may base the tax on the full assessed value of the taxable property within the service district, notwithstanding any special use value assessment of property within the service district for land preservation pursuant to Article 4 (§ 58.1-3229 et seq.) of Chapter 32 of Title 58.1, provided the owner of such property has given written consent.

7. To accept the allocation, contribution or funds of, or to reimburse from, any available source, including, but not limited to, any person, authority, transportation district, or state or federal agency for either the whole or any part of the costs, expenses and charges incident to the acquisition, construction, reconstruction, maintenance, alteration, improvement, expansion and the operation or maintenance of any facilities and services in the district.

8. To employ and fix the compensation of any technical, clerical or other force and help which from time to time, in their judgment may be necessary or desirable to provide the governmental services authorized by subdivisions 1, 2 and 11 or for the construction, operation or maintenance of any such facilities and equipment as may be necessary or desirable in connection therewith.

9. To create and terminate a development board or other body to which shall be granted and assigned such powers and responsibilities with respect to a special service district as are delegated to it by ordinance adopted by the governing body of such locality or localities. Any such board or alternative body created shall be responsible for control and management of funds appropriated for its use by the governing body or bodies, and such funds may be used to employ or contract with, on such terms and conditions as the board or other body shall determine, persons, municipal or other governmental entities or such other entities as the development board or alternative body deems necessary to accomplish the purposes for which the development board or alternative body has been created. If the district was created by court order, the ordinance creating the development board or alternative body may provide that the members appointed to the board or alternative body shall consist of a majority of the landowners who petitioned for the creation of the district, or their designees or nominees.

10. To negotiate and contract with any person or municipality with regard to the connections of any such system or systems with any other system or systems now in operation or hereafter established, and with regard to any other matter necessary and proper for the construction or operation and maintenance of any such system within the district.

11. To acquire by purchase, gift, devise, bequest, grant or otherwise title to or any interests or rights of not less than five years' duration in real property that will provide a means for the preservation or provision of open-space land as provided for in the Open-Space Land Act (§ 10.1-

1700 et seq.). Notwithstanding the provisions of subdivision 3, the governing body shall not use the power of condemnation to acquire any interest in land for the purposes of this subdivision.

12. To contract with any state agency or state or local authority for services within the power of the agency or authority related to the financing, construction or operation of the facilities and services to be provided within the district; however, nothing in this subdivision shall authorize a locality to obligate its general tax revenues, or to pledge its full faith and credit.

13. In the Town of Front Royal, to construct, maintain and operate facilities, equipment and programs as may be necessary or desirable to control, eradicate and prevent the infestation of rats and removal of skunks and the conditions that harbor them. (Code 1950, § 15-8.2; 1962, c. 581, § 15.1-18.2; 1981, c. 631, § 15.1-18.3; 1982, c. 96; 1984, c. 385; 1985, c. 150; 1987, cc. 61, 80, 82; 1988, c. 402; 1989, c. 3; 1990, cc. 44, 515; 1991, cc. 12, 29; 1992, cc. 232, 655; 1993, c. 744; 1994, c. 166; 1996, cc. 99, 430, 844; 1997, c. 587; 1999, c. 295; 2000, cc. 743, 853, 925; 2002, cc. 198, 202, 230, 356; 2003, c. 493; 2004, c. 810.)

Memo for Subject File

Re: Library Levy

From: Maria Del Rosso

Date: 8/18/04

- Library Board Chairman Barbara Severin, Library Director Maria Del Rosso, and County Attorney Paul McCulla met on August 17 to discuss the possibility of establishing a separate library levy/tax in Fauquier County.
- Mr. McCulla cited two sections of the Virginia Code, Section 42.1–33 (Power of local government to establish and support libraries.) and Section 15.2 – 2403 (Powers of service districts.) that might support establishing a separate library levy in Fauquier County. Mr. McCulla pointed out that Section 42.1 refers specifically to the power of the locality to levy a tax to support the operation of a public library. Mr. McCulla said that while libraries are not mentioned in Section 15.2 the language is broad in nature and could be interpreted to include libraries.
- Mr. McCulla said that the Board of Supervisors has the authority to create a special taxing district that would include the entire county for the library system. The district could be established by the adoption of an ordinance. This is done by:
 1. Advertising a public hearing,
 2. Holding a public hearing,
 3. Adopting an ordinance, and
 4. Setting forth a levy.

- Mrs. Severin asked if the levy would be limited to operating expenditures or could include anticipated capital needs. Mr. McCulla responded that the county could choose to fund capital or operating or both. Mrs. Del Rosso asked if the funds would be managed through the county financial system. Mr. McCulla responded that because it was county revenue it would be managed through the county system.
- Mr. McCulla cautioned that the library levy rate could be changed at the will of the Board of Supervisors. Mr. McCulla also said that maintenance costs that are not included in the library's operating budget may be transferred to the budget under the levy arrangement.
- A general discussion ensued about the pros and cons of establishing a separate library levy. Mr. McCulla agreed to attend a meeting of the Library Board to brief members about the enabling legislation and the procedure for the establishment of a separate levy.